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Report of the High Commissioner for Human Rights on his visit to Indonesia and East Timor, 3-7 December 1995

1. In a statement read out by the Chairman of the fifty-first session of the Commission on Human Rights on 1 March 1995, the Commission welcomed the undertaking of the Government of Indonesia to invite the High Commissioner for Human Rights to visit East Timor in 1995 and to submit his report to the Commission on Human Rights at its fifty-second session. The High Commissioner visited Indonesia and East Timor from 3 to 7 December 1995. He expresses his deep appreciation to the Government of Indonesia for the invitation, for the facilities provided during his stay and for the possibility of meeting anyone he wished to meet. The present report is submitted pursuant to the request contained in the above-mentioned statement.

Visit to Indonesia and East Timor

2. During his visit, the High Commissioner met representatives of the Government, including the President of Indonesia, the Minister for Foreign Affairs, the Defence Minister, the Attorney-General, the Minister for Women's Affairs and the Secretary of the Minister for Welfare, as well as the President and the members of the National Human Rights Commission, and representatives of academic and research centres, non-governmental organizations and the media. The High Commissioner also met Mr. Xanana Gusmao, the jailed East Timorese leader of FRETILIN, at the Cipinang Correctional Centre in Jakarta.

3. In his meeting with the Minister for Foreign Affairs, Mr. Ali Alatas, on 3 December 1995, the High Commissioner recognized the steps that the Government had already taken with respect to the promotion and protection of human rights: first and foremost the establishment of the National Human Rights Commission. He praised the cooperation of the Government of Indonesia with mechanisms of the Commission on Human Rights, such as the invitations to the Special Rapporteur on extrajudicial, summary or arbitrary executions in 1994 and to the Special Rapporteur on the question of torture in 1991.

4. The High Commissioner handed over to the Minister a memorandum containing a list of issues that have been raised by thematic special rapporteurs and other mechanisms of the Commission and by relevant human rights treaty bodies. The High Commissioner said that he was not on a fact-finding mission but that part of his dialogue with Member States was to follow up on the recommendations made by United Nations human rights mechanisms and bodies. He stressed the importance for Indonesia of ensuring full cooperation with all the instruments and mechanisms of the United Nations human rights programme. He indicated his willingness to cooperate with the Government of Indonesia with respect to the realization of a national action plan for human rights, as well as the further promotion and protection of human rights in Indonesia and East Timor.

5. The High Commissioner requested that positive consideration be given by the Government of Indonesia to a number of concrete human rights and related issues. He made reference to the importance of ratifying international human rights instruments and emphasized the need for Indonesia to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Furthermore, the High Commissioner asked the Government of Indonesia to give international human rights NGOs full access to Indonesia and East Timor.

6. With respect to the incident that occurred in Dili on 12 November 1991, the High Commissioner asked the Government of Indonesia to pay compensation to the families of the victims. He stressed the need to continue the search for the disappeared and dead. Renewed efforts should be made in order to locate the graves and to return the remains to the families concerned, in cooperation with representatives of the East Timorese church and the local community. Finally, there should be a continuing investigation of the incident, as new elements emerged.

7. The High Commissioner requested the Government to consider the following additional measures, inter alia: (a) the transfer of a number of Timorese prisoners (Gregorio da Cunha Saldanha, Francisco Miranda Branco, Saturnino da Costa Belo, Jacinto Alves, Filomeno da Silva Pereira, Juvenlio de Jesus Martins) from the Semarang prison in central Java to the Dili prison; (b) the repeal of the anti-subversion law; (c) an end to the transmigration of Indonesians to East Timor; (d) the reduction of troops in East Timor; (e) clemency for all those civilians convicted for publicly expressing political dissent or revealing facts relating to the incident in Dili and other more recent demonstrations. The High Commissioner also stressed the

importance of enacting legislation that would ensure respect for the religious, cultural and historical heritage of the East Timorese population and would protect the use of the Portuguese language in schools.

8. The Minister for Foreign Affairs said that he was looking forward very much to developing a cooperative relationship with the Office of the High Commissioner for Human Rights further to the Memorandum of Intent signed in 1994. The Minister recalled the steps taken by Indonesia since the 1993 World Conference on Human Rights held in Vienna, such as the holding of regional and national workshops on human rights and the establishment of the National Commission on Human Rights. The Government was currently preparing a national human rights action plan, focusing mostly on education and the dissemination of information. Mr. Alatas welcomed the High Commissioner's expression of support for the national action plan. He indicated that the High Commissioner's visit would be the beginning of a dialogue at the highest level on human rights matters, in keeping with the Charter of the United Nations, the Vienna Declaration and Programme of Action and relevant resolutions of the General Assembly.

9. The Minister appreciated the recognition of the efforts undertaken by his Government, particularly in terms of human rights education. He pointed out that the National Commission had proved to be active and independent. It had gone beyond the accusatory stage to help resolve specific problems, such as land disputes. Mr. Alatas stated: "Our advances in the field of human rights may be perceived as slow but they are certainly deliberate and will continue."

10. The Minister indicated that he was rather disappointed by certain reports of mechanisms of the Commission, which could be considered as being unbalanced and lacking in objectivity, as well as by the attitude of some NGOs, which would appear to be waging a political campaign against Indonesia. As far as the ratification of human rights conventions was concerned, he said that the national human rights action plan would contain a timetable for ratification, starting with the Convention against Torture. Indonesia had certain difficulties with the two International Covenants, particularly the International Covenant on Civil and Political Rights.

11. The Minister stressed that East Timor was mainly a political problem which influenced human rights issues. As far as the incident in Dili was concerned, the Government had recognized its responsibility and had investigated and punished those found guilty of crimes. In particular, two generals had been dismissed and eight military personnel had been punished. Responding to the High Commissioner's proposal to establish a United Nations human rights presence in East Timor, he pointed out that there were problems with the opening of a United Nations office in East Timor, but that a human rights presence could be established in Jakarta. The High Commissioner indicated that the staff concerned should not only work on technical cooperation programmes but should also be able to go to East Timor as often as necessary and report directly to the High Commissioner on human rights matters.

12. According to the Minister, the search for the persons missing after the 12 November 1991 incident was continuing. The payment of compensation to the families of the victims had been assumed by charitable organizations.

While the transmigration programme would not apply to East Timor, there was nevertheless an influx of Indonesians into East Timor for three main reasons: (i) as local officials of the central Government; (ii) as experts in engineering, health and education; and (iii) as traders.

13. In his meeting with the Indonesian National Human Rights Commission, the High Commissioner stressed the importance nationally and internationally of the work of the Commission. He encouraged the members of the Commission to continue their efforts for the promotion and protection of human rights and to urge the Government to take measures in order to avoid or redress violations of human rights. The High Commissioner pointed out that the Commission should be based on law, should have sufficient resources to act independently and should ensure that its recommendations were faithfully implemented by the Government.

14. Members of the Indonesian Commission mentioned that Indonesia was taking important steps in the field of human rights, which often were not recognized by the Commission on Human Rights. According to them, torture was being established as a crime in Indonesian law. The High Commissioner was informed of the Commission's plans to open an office in Dili to promote and protect human rights.

15. The High Commissioner pointed out that the National Commission should consider the possibility of investigating past events, like the 1991 Dili incident. In that connection, the High Commissioner noted that, in the Chairmen's statements on East Timor, the Commission on Human Rights had clearly emphasized the issue of continuing investigation and that those statements had received the support of the Government of Indonesia also. The Chairman of the Indonesian Commission assured the High Commissioner that there was no rule which would prevent the Commission from investigating past violations; it would be ready to do so.

16. In his meetings with them, the Minister of Defence and the Attorney-General, expressed to the High Commissioner their support for the promotion and protection of human rights. The Minister for Women's Affairs and the secretary of the Minister for Social Welfare mentioned the progress made by Indonesia in the areas of health, education, development and the fight against poverty; the 60 per cent of the population previously living in poverty had been reduced to 16 per cent. Members of the Parliament confirmed that they were studying the ratification of human rights instruments, starting with the Convention against Torture.

17. While in Dili, East Timor, the High Commissioner had meetings with the Governor, the local Military Commander, the Police Chief, members of the local Assembly, Bishop Carlos Ximenes Belo, the rector of the University of Dili, human rights activists, the head of the Protestant Church, members of the so-called "Group of 1959", a representative of the Evangelical Church. He also met the leader of the boat people who had tried to go to Australia, Mrs. Maria F. Pereira, at the Police Centre. In addition, the High Commissioner met with the head and former head of the Dili Office of the International Committee of the Red Cross. He visited a community development pilot project at Ailieu and the Polytechnic Institute at Hera, in East Timor.

18. The High Commissioner received opposite views with respect to the human rights situation in East Timor.

19. The authorities, including the Governor, the military and police officials, stated that the situation was normal and that continuing efforts were being made for economic and social development. Tension in East Timor was created by criminals, mostly in Dili, not without outside interference. East Timorese who wanted to leave Dili or East Timor could do so. The boat people who had attempted to sail to Australia had been rescued in order to avoid a disaster because of doubts about the seaworthiness of the boat. Of the group of about 30 persons involved, only 5 were still being detained pending action by a judge. The Chairman of the local Assembly said how much the situation had improved in the past few years, particularly with respect to education and economic and social development. In his opinion, the Dili incident had been thoroughly and satisfactorily investigated by the Government. Similar views were expressed by a number of NGOs.

20. Others felt that the situation was deteriorating, and that on the surface only there appeared to be normal conditions of life. In their opinion, while the main problem was political, there were very grave violations of human rights in East Timor. Four years after the incident in Dili, many of the families of the victims did not know the fate of their loved ones. If those missing had been killed, then relatives should be told where they were buried and those responsible should be prosecuted and condemned. Even Indonesian human rights NGOs had limited access to East Timor. The detained East Timorese were allegedly tortured. They felt that the military authorities would organize everything, including required dissent, and would be responsible for creating a climate of fear and repression.

21. Maria Fatima Pereira, the leader of the 33 boat people who had attempted to reach Australia, confirmed to the High Commissioner at the Police Centre in Dili that only 5 individuals remained in detention and that they had not been mistreated. Asked about the reasons for her attempt to leave, she said that she wanted a better life for herself and her daughter.

22. The High Commissioner met Xanana Gusmao at the Cipinang Correctional Centre in Jakarta on 7 December. Mr. Gusmao looked in good health and told the High Commissioner that he was as well as a person without freedom could be. Mr. Gusmao asked the High Commissioner to convey a political message to the Secretary-General. He said that he would support any action that could be taken in order to improve the situation in East Timor in view of the fact that he was very concerned about the future of his people.

Conclusions

23. The High Commissioner had very frank talks with the Government of Indonesia on key human rights issues and considered that his visit was an important step for the promotion and protection of human rights in Indonesia and East Timor. The High Commissioner recognized that progress has been made in the field of human rights in Indonesia, most notably through the establishment of the National Human Rights Commission. Furthermore, the Government of Indonesia expressed its determination to further the cooperation with the mechanisms of the Commission on Human Rights and to continue to

implement their recommendations. The Government publicly indicated that it would extend invitations to United Nations human rights rapporteurs and working groups "in due time".

24. The Government of Indonesia informed the High Commissioner that it had adopted a policy, to be elaborated in its national action plan, of acceding to United Nations human rights instruments on a priority basis. Ratification of the Convention against Torture had been set as the first priority.

25. While the High Commissioner took note of the accomplishments of Indonesia in the field of economic, social and cultural rights, he publicly stated that there were violations of human rights which had to be corrected. This was particularly true with respect to East Timor.

26. With respect to the 12 November 1991 incident in Dili, the Government of Indonesia agreed to continue the search for the missing. The Government would make available to the High Commissioner any new information on the Dili incident and the persons who were unaccounted for. The National Human Rights Commission of Indonesia for its part might decide to investigate the Dili incident if "new elements emerge".

27. It was agreed that the Memorandum of Intent between the Government of Indonesia and the High Commissioner for Human Rights/Centre for Human Rights (signed on 24 October 1994) would be upgraded to a memorandum of understanding. In this context, a human rights presence would be established in Jakarta within the United Nations office there. The mandate of this human rights presence is currently under negotiation between the Office of the High Commissioner for Human Rights and the Government of Indonesia.

28. The situation of human rights in East Timor could and should improve: such an improvement must be an end in itself. At the same time, it could influence positively the political dialogue. In this connection, the visit of the High Commissioner could represent a significant positive step in terms of cooperation between the Government of Indonesia and the United Nations on human rights matters.

29. The High Commissioner is currently carrying out discussions with the Government of Indonesia on a memorandum of understanding. He will continue to do all he can for the better promotion and protection of human rights in Indonesia and East Timor. He will support to the extent possible the realization of a national human rights action plan, as well as its implementation in cooperation with the various agencies involved. He will recognize progress where progress is achieved and will continue to address the problems of human rights in the most constructive and objective manner, in keeping with his mandate and the effective realization of all human rights.